

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDO ASLANYAN,

Petitioner,

v.

ROBERT HERZOG,

Respondent.

CASE NO. C14-0511JLR

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DISMISSING ACTION WITH
PREJUDICE

I. INTRODUCTION

This matter comes before the court on the Report and Recommendation of United States Magistrate Judge James P. Donohue (R&R (Dkt. # 15)), and Petitioner Edo Aslanyan's objections thereto (Obj. (Dkt. # 16)). Having carefully reviewed all of the foregoing, along with all other relevant documents, and the governing law, the court ADOPTS the Report and Recommendation, DENIES Mr. Aslanyan's amended petition for a writ of habeas corpus (Am. Pet. (Dkt. # 13)) and DISMISSES this action with prejudice.

II. STANDARD OF REVIEW

A district court has jurisdiction to review a Magistrate Judge's report and recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The court reviews de novo those portions of the report and recommendation to which specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). "The statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo if objection is made, but not otherwise." *Id.* When no objections are filed, the court need not review de novo the report and recommendation. *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005).

III. DISCUSSION

Mr. Aslanyan raises five objections to the Report and Recommendation. (*See generally* Obj.) First, he asserts that the Magistrate Judge should have ordered an evidentiary hearing with respect to certain inaccuracies or omissions in the translation of a witness's testimony on cross-examination at his trial. (*Id.* at 1-2.) Second, he objects to the Magistrate Judge's finding that he was not prejudiced by his counsel's failure to object to the prosecutor's use of anti-Semitic language and race. (*Id.* at 2-3.) Next, Mr. Aslanyan objects to the Magistrate Judge's rejection of his ineffective assistance of counsel claim. (*Id.* at 3.) He also objects to the Magistrate Judge's rejection of his claim

1 that errors in the translation of the cross-examination of one witness violated his Sixth
2 Amendment right to meaningfully confront this witness. (*Id.*) Finally, Mr. Aslanyan
3 objects to the Magistrate Judge's conclusion that Mr. Aslanyan is not entitled to a
4 certificate of appealability. (*Id.* at 4.)

5 With the exception of Mr. Aslanyan's objection to Magistrate Judge Donohue's
6 conclusion that Mr. Aslanyan is not entitled to a certificate of appealability, all of Mr.
7 Aslanyan's objections simply rehash arguments contained in his amended opening
8 memorandum (Dkt. # 14) or in his reply memorandum (Dkt. # 10). None of Mr.
9 Aslanyan's objections raise any novel issues that were not addressed by Magistrate Judge
10 Donohue's Report and Recommendation. Moreover, the court has thoroughly examined
11 the record before it and finds the Magistrate Judge's reasoning persuasive in light of that
12 record. With the exception of the certificate of appealability issue, Mr. Aslanyan
13 essentially reasserts the same arguments he made to Magistrate Judge Donohue, and the
14 court independently rejects those arguments for the same reasons as Magistrate Judge
15 Donohue. Further, the court concurs with Magistrate Judge Donohue that Mr. Aslanyan
16 is not entitled to a certificate of appealability because he has not made "a substantial
17 showing of the denial of a constitutional right." *See* 28 U.S.C. § 2253(c)(3).

18 IV. CONCLUSION

19 For the foregoing reasons, the court hereby ORDERS as follows:

20 (1) The court ADOPTS Magistrate Judge Donohue's Report and Recommendation
21 (Dkt. # 15) in its entirety;
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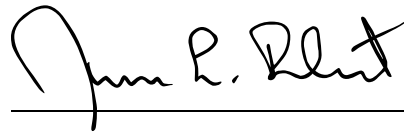
1 (2) The court DENIES Mr. Aslanyan's amended petition for a writ of habeas
2 corpus (Dkt. # 13).

3 (3) The court DISMISSES Mr. Aslanyan's amended petition and this action with
4 prejudice;

5 (4) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in
6 United States District Courts, the court DENIES a certificate of appealability with respect
7 to all grounds for relief asserted in this federal habeas action; and

8 (4) The court DIRECTS the Clerk to send copies of this Order to all counsel of
9 record and to Magistrate Judge Donohue.

10 Dated this 17th day of December, 2014.

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14 JAMES L. ROBART
15 United States District Judge
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